

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

**VERDICT FORM**

**Part A. AMERICANS WITH DISABILITY ACT (“ADA”)**

**Disability Discrimination**

1. Did Jose Prado have a disability?

6 Yes

No

7 2. Could Mr. Prado perform the essential functions of a part-time-handler position  
8 with or without reasonable accommodation?

9 Yes

No

10 3. Did Mr. Prado suffer an adverse employment action by Federal Express  
11 Corporation?

12 Yes

No

13 4. Was Mr. Prado’s disability a motivating factor that prompted the adverse  
14 employment action?

16 Yes

No

17 If your answer to any or all of Questions 1, 2, 3, or 4, is “No,” then please proceed to Question 11.  
18 If your answer to Questions 1, 2, 3 and 4 is “Yes,” please proceed directly to Question 5.

19 5. Was FedEx’s decision to take adverse employment action against Mr. Prado also  
20 substantially motivated by a lawful reason?

21 Yes

No

22 If your answer to Question 5 is “No,” then please proceed to Question 7. If your answer to  
23 Question 5 is “Yes,” please proceed directly to Question 6.

24 6. Would FedEx have made the same decision to take adverse employment action  
25 against Mr. Prado even if Mr. Prado’s disability had played no role in FedEx’s  
decision?

26 Yes

No

27 Please proceed to Question 7.

## **Failure to Accommodate Disability**

## 7. Was FedEx an employer?

Yes

No

8. Was Mr. Prado an employee of FedEx?

Yes

No

If your answer to either Question 7 or 8, or both, is “No,” then please proceed to Part B. If your answer to both Questions 7 and 8 is “Yes,” please proceed directly to Question 9.

9. Did Mr. Prado have a disability?

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Yes

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No

If your answer to Question 9 is “No,” then please proceed to Part B. If your answer to Question 9 is “Yes,” please proceed directly to Question 10.

10. Did FedEx know of Mr. Prado's disability?

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Yes

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No

If your answer to Question 10 is “No,” then please proceed to Part B. If your answer to Question 10 is “Yes,” please proceed directly to Question 11.

11. Was Mr. Prado able to perform the essential job duties with reasonable accommodation for his disability?

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Yes

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No

If your answer to Question 11 is “No,” then please proceed to Part B. If your answer to Question 11 is “Yes,” please proceed directly to Question 12.

12. Did FedEx fail to provide reasonable accommodation for Mr. Prado's disability?

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Yes

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No

If your answer to Question 12 is “No,” then please proceed to Part B. If your answer to Question 12 is “Yes,” please proceed directly to Question 13.

13. Was FedEx's failure to provide reasonable accommodation a substantial factor in causing harm to Mr. Prado?

Yes

No

Please proceed to Part B.

**Part B.** FAIR EMPLOYMENT AND HOUSING ACT (“FEHA”)

## Disability Discrimination

14. Did Mr. Prado have a disability?

Yes

No

15. Could Mr. Prado perform the essential functions of a part-time-handler position with or without reasonable accommodation?

Yes

No

16. Did Mr. Prado suffer an adverse employment action by FedEx?

Yes

No

17. Was Mr. Prado's disability a substantial motivating reason that prompted the adverse employment action?

Yes

No

If your answer to any or all of Questions 14, 15, 16 or 17 is “No,” then please proceed to Question 20. If your answer to Questions 14, 15, 16 and 17 is “Yes,” please proceed directly to Question 18.

18. Was FedEx's decision to take adverse employment action against Mr. Prado also substantially motivated by a lawful reason?

Yes

No

If your answer to Question 18 is “No,” then please proceed to Question 20. If your answer to Question 18 is “Yes,” please proceed directly to Question 19.

19. Would FedEx have made the same decision to take adverse employment action against Mr. Prado even if Mr. Prado's disability had played no role in FedEx's decision?

Yes

No

Please proceed to Question 20.

## Failure to Accommodate

## 20. Was FedEx an employer?

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Yes

No

21. Was Mr. Prado an employee of FedEx?

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Yes

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No

If your answer to either Question 20 or 21, or both, is “No,” then please proceed to Question 27. If your answer to both Questions 20 and 21 is “Yes,” please proceed directly to Question 22.

22. Did Mr. Prado have a disability?

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Yes

No

If your answer to Question 22 is “No,” then please proceed to Question 27. If your answer to Question 22 is “Yes,” please proceed directly to Question 23.

23. Did FedEx know of Mr. Prado's disability?

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Yes

No

If your answer to Question 23 is “No,” then please proceed to Question 27. If your answer to Question 23 is “Yes,” please proceed directly to Question 24.

24. Was Mr. Prado able to perform the essential job duties with reasonable accommodation for his disability?

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Yes

No

If your answer to Question 24 is “No,” then please proceed to Question 27. If your answer to Question 24 is “Yes,” please proceed directly to Question 25.

25. Did FedEx fail to provide reasonable accommodation for Mr. Prado's disability?

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Yes

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No

If your answer to Question 25 is “No,” then please proceed to Question 27. If your answer to Question 25 is “Yes,” please proceed directly to Question 26.

26. Was FedEx's failure to provide reasonable accommodation a substantial factor in causing harm to Mr. Prado?

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Yes

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No

Please proceed to Question 27.

## Failure to Engage in the Interactive Process

27. Was FedEx an employer?

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Yes

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No

28. Was Mr. Prado an employee of FedEx?

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Yes

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No

If your answer to either Question 27 or 28, or both, is “No,” then please proceed to Question 34. If your answer to both Questions 27 and 28 is “Yes,” please proceed directly to Question 29.

29. Did Mr. Prado have a disability?

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Yes

No

If your answer to Question 29 is “No,” then please proceed to Question 34. If your answer to Question 29 is “Yes,” please proceed directly to Question 30.

30. Did Mr. Prado make known to FedEx that he needed a reasonable accommodation for his disability so that he would be able to perform the essential job functions?

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Yes

No

If your answer to Question 30 is “No,” then please proceed to Question 34. If your answer to Question 30 is “Yes,” please proceed directly to Question 31.

31. Was Mr. Prado willing to participate in an interactive process to determine whether reasonable accommodation could be made so that he would be able to perform the essential job functions?

Yes

No

If your answer to Question 31 is “No,” then please proceed to Question 34. If your answer to Question 31 is “Yes,” please proceed directly to Question 32.

32. Did FedEx fail to participate in a timely, good-faith interactive process with Mr. Prado to determine whether reasonable accommodation could be made?

Yes

No

If your answer to Question 32 is “No,” then please proceed to Question 34. If your answer to Question 32 is “Yes,” please proceed directly to Question 33.

33. Was FedEx's failure to participate in a good-faith interactive process a substantial factor in causing harm to Mr. Prado?

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Yes

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No

Please proceed to Question 34.

## Failure to Prevent Discrimination

34. Did FedEx fail to take all reasonable steps to prevent unlawful discrimination against Mr. Prado?

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Yes

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No

If your answer to Question 34 is “No,” then please proceed to Part C. If your answer to Question 34 is “Yes,” please proceed directly to Question 35.

35. Was FedEx's failure to prevent unlawful discrimination a substantial factor in causing harm to Mr. Prado?

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Yes

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No

Please proceed to Part C.

## **Part C.** **PUBLIC POLICY**

## **Discharge or Displacement Without Pay in Violation of Public Policy**

### 36. Was FedEx an employer?

Yes

No

If your answer to Question 36 is “No,” then please proceed to Part D. If your answer to Question 36 is “Yes,” please proceed directly to Question 37.

37. Was Mr. Prado discharged or displaced without pay?

Yes

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No

If your answer to Question 37 is “No,” then please proceed to Part D. If your answer to Question 37 is “Yes,” please proceed directly to Question 38.

38. Was Mr. Prado's disability a substantial motivating reason for FedEx's decision to discharge or displace him without pay?

Yes

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No

If your answer to Question 38 is “No,” then please proceed to Part D. If your answer to Question 38 is “Yes,” please proceed directly to Question 39.

39. Did the discharge or displacement without pay cause Mr. Prado harm?

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Yes

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No

If your answer to Question 39 is “No,” then please proceed to Part D. If your answer to Question 39 is “Yes,” please proceed directly to Question 40.

40. Has FedEx proved that its decision to take adverse employment action against Mr. Prado, including his discharge or displacement without pay, was also substantially motivated by a lawful reason?

Yes

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No

If your answer to Question 40 is “No,” then please proceed to Part D. If your answer to Question 40 is “Yes,” please proceed directly to Question 41.

41. Has FedEx proved that it would have made the same decision to take adverse employment action against Mr. Prado, including his discharge or displacement without pay, even if Mr. Prado's disability had played no role in FedEx's decision?

Yes

No

Please proceed to Part D.

## **Part D.** **DAMAGES**

If you answered "No" as to any or all of Questions 5, 6, 18, 19, 40 or 41 or if you answered "Yes" as to any or all of Questions 13, 26, 33 or 35 please proceed directly to Question 42. Otherwise, stop here, answer no further questions, and have the foreperson sign and date this form.

42. What are Mr. Prado's damages?

a. Past economic loss:

Lost earnings: \$ \_\_\_\_\_

Medical expenses: \$ \_\_\_\_\_

Other past economic loss: \$ \_\_\_\_\_

Total Past Economic Damages: \$ \_\_\_\_\_

b. Future economic loss:

Lost earnings: \$

Medical expenses: \$

Other past economic loss: \$

Total Future Economic Damages:      \$

c. Past noneconomic loss, including

past noneconomic loss, including physical pain/mental suffering: §

d. Future noneconomic loss, including

Future noneconomic loss, including physical pain/mental suffering: \$

TOTAL: \$

Please proceed to Question 43.

1                   43. Did a managing agent at FedEx act with malice, oppression or reckless disregard  
2                   of Mr. Prado's rights?

3                   Yes \_\_\_\_\_                   No \_\_\_\_\_

4                   44. Did a managing agent at FedEx take, authorize or approve of action against Mr.  
5                   Prado with malice, oppression or fraud?

6                   Yes \_\_\_\_\_                   No \_\_\_\_\_

7                   If your answer to either Question 43 or 44, or both is "No," then stop here, answer no further  
8                   questions, and have the foreperson sign and date this form. If your answer to either Question 43 or  
9                   44, or both is "Yes," please proceed directly to Question 45.

10                  45. What are Mr. Prado's punitive damages?                   \$ \_\_\_\_\_

11                  Please have the foreperson sign and date this form.

12                  Dated: \_\_\_\_\_

13                  \_\_\_\_\_  
14                  PRESIDING JUROR

15                  After this verdict form has been signed and dated, notify the court that you are ready to present  
16                  your verdict in the courtroom.

17                  **IT IS SO ORDERED.**

18                  Dated: October 2, 2014

19                    
20                  PAUL S. GREWAL  
21                  United States Magistrate Judge